

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Morris Depew Associates, Inc., filed an application on behalf of the property owner, Daniels Road Lenders, LLC, to rezone a 7.72± acre parcel from Commercial Planned Development (CPD) zoning district to CPD, in reference to Daniels Tractor Supply; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Amanda L. Rivera, was advertised and held on December 15, 2022. At the conclusion of the hearing on December 15, 2022, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to her Office on or before January 13, 2023, and signed the Order of Continuance for the hearing to resume on January 30, 2023. On January 30, 2023, the public hearing was held; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2022-00010 and recommended Approval of the Request; and

WHEREAS, a second public hearing was advertised and held on April 5, 2023 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 7.72± acre parcel from CPD zoning district to CPD. Applicant is proposing up to 25,000 square feet of commercial development and 25,000 square feet of outdoor accessory commercial uses.

The property is located in the Outlying Suburban and Wetland Future Land Use Categories and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. **Master Concept Plan (MCP) and Development Intensity**

- a. MCP. Development must be substantially consistent with the two-page MCP entitled "Daniels Tractor Supply," prepared by Dynamic Engineering, dated August 18, 2022, except as modified by the conditions below.

- b. Lee Plan and LDC. Development must comply with the LDC and Lee Plan at time of local development order approval, except where deviations are approved herein. Subsequent amendments to this zoning resolution and MCP may be subject to further development approvals.
- c. Development Parameters. The CPD is limited to a maximum of 25,000 square feet of retail commercial use and 25,000 square feet of outdoor accessory commercial display/storage use.

2. **Uses and Site Development Regulations**

a. Schedule of Uses

Accessory Uses & Structures
 Administrative Offices
 Animals: Clinic – Limited to Indoor Only and Ancillary to Veterinarians Office
 ATM
 Banks and Financial Establishments: Group I with Drive-Through
 Bait and tackle shop
 Boats Parts Store
 Broadcast Studio and Television
 Business Services: Group I
 Business Services: Group II – Limited to Messenger Services, Packaging Services, Parcel and Express Services
 Cleaning and Maintenance Services
 Clothing stores, general
 Clubs: Commercial
 Community Gardens
 Computer and Data Processing Services
 Contractors and Builders: Group I
 Cultural Facilities – Limited to Art Galleries, Botanical Gardens or, Historical Sites
 Department Store
 Day Care Center – Adult, Child
 Essential Services
 Essential Service Facilities: Group I
 Excavation: Water Retention
 Farm equipment, sales, storage, rental, or service
 Feed or fertilizer, mixing and sales
 Fences, Walls, gate, gatehouses
 Hardware store
 Hobby, toy, and game shops
 Household and office furnishings – Groups I & II
 Insurance Companies
 Lawn and garden supply stores
 Medical Office
 Parking Lot:
 Accessory
 Temporary
 Pet Services

Pet Shop
Printing and Publishing
Place of Worship
Plant Nursery
Rental or Leasing Establishments, Group I, II, III
Research and Development: Groups II & IV
Retail and Wholesale sales, when clearly incidental and subordinate to a permitted principal use on the premises
Schools, Commercial
Signs
Social Services: Group I
Social Services: Group II - Limited to Job Training; Manpower Training; Skill Training
Specialty Retail Shops: All Groups
Storage:
 Indoor
 Open
Studios
Temporary Uses
Variety Store
Vehicle and Equipment Dealers, Groups II & IV

b. Site Development Regulations

Minimum Open Space:
30 percent for commercial uses
50 percent of the total open space must be indigenous open space

Minimum Setbacks:
Shire Lane: 25 feet
Daniels Parkway: 50 feet
Accessory display: 15 feet
Side: 15 feet
Rear: 15 feet
Preserve: 20 feet (10 feet for accessory structure), 30 feet for communities subject to fire

Maximum building height: 35 feet
Maximum lot coverage: 45 percent

3. Open Space

Development order plans must depict a total of 1.79 acres of indigenous open space and 1.49 acres of restored wetlands in substantial compliance with the MCP.

4. Conservation Easement Recording

Developer must record a conservation easement for indigenous/restoration preserve areas prior to issuance of the first development order. Conservation easements must be

dedicated to an appropriate maintenance entity that provides third party enforcement rights to Lee County or an agency acceptable to the county.

5. Wetland Impacts

- a. Developer must submit a receipt of mitigation payment or mitigation plans for wetland impacts to the Lee County Department of Community Development prior to development order issuance.
- b. Developer must submit a Bonneted Bat acoustic survey to Development Services Environmental Sciences prior to Vegetation Removal Permit issuance.

6. Daniels Parkway Buffer

Landscape plans must depict a 25-foot-wide buffer along the south property line. Landscaping must include ten-trees-per-100-linear-feet, double hedge row, and an 18-inch high berm.

7. North Buffer

Landscape plans must depict a 15-foot-wide Type-D landscape buffer along the north property line prior to development order issuance. Indigenous vegetation located within the Native Open Space Area may serve as the landscape vegetation to comply with the Type-D buffer.

8. Surface and Ground Water Monitoring

Developer must provide a Water Quality Monitoring Plan for review/approval by Lee County Division of Natural Resources prior to development order approval that includes:

- a. The overall Goals and Objectives of the Water Quality Monitoring Plan;
- b. An outfall monitoring schedule during “wet” season and “dry” season, for field temperature, pH, specific conductance, dissolved oxygen, turbidity, chlorophyll-a, ammonia, total Kjeldahl nitrogen, nitrite, nitrate, total phosphorus, total suspended solids, total hardness, copper, zinc, iron, and e. Coli;
- c. A baseline monitoring event to be part of the monitoring plan that must be completed prior to commencing construction;
- d. Identify monitoring locations;
- e. Water quality monitoring data must be provided to the Division of Natural Resources annually for a minimum of five years and must include a report with a comparison of State water quality standards, plots of parameters, and recommendations. After five years of meeting or exceeding state water quality monitoring standards, Developer may amend water quality monitoring/reporting after written request, review, and approval by the Division of Natural Resources; and

- f. A contingency plan in the event an exceedance of State Water Quality Standards is discovered. This plan must include notification to impacted residents and applicable authorities.

9. State and Federal Permits

- a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.
- b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

If the State does not approve wetland impacts or if State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then Developer must amend County development permit approvals to be consistent with state wetland permits and applicable Lee Plan and LDC regulations regarding development within wetlands.

SECTION C. DEVIATIONS:

1. Connection Separation. Deviation (1) seeks relief from the LDC §10-285, requesting a reduction in the required connection separation distance of 125 feet to 48 feet from the subject property's access points and existing/planned access points along Shire Lane. This deviation is APPROVED.
2. Withdrawn.
3. Outdoor Display Setbacks. Deviation (3) seeks relief from the LDC §34-1352(c), which requires specific setbacks for outdoor display to allow the current configuration of setbacks as depicted in the MCP and as further detailed in the Property Development Regulations. This deviation is APPROVED.
4. Outdoor Display Buffers. Deviation (4) seeks relief from the LDC §34-1352(g)(1), which requires specific buffers for outdoor display, to allow the current configuration of buffers as depicted in the MCP and as further detailed in the Property Development Regulations. This deviation is APPROVED, SUBJECT TO condition 6 and the condition that outdoor display cannot occur along Shire Lane without increasing the buffer to 25-feet.
5. Parking. Deviation (5) seeks relief from the LDC §34-2016(4), which requires parking to be developed throughout the site utilizing the same degree of angle, to allow trailer parking with a different angle from the car (passenger vehicle) parking found throughout the site. This deviation is APPROVED.

SECTION D. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

Based upon its review, the Board of County Commissioners adopts the recommendation of the Hearing Examiner, including the following findings and conclusions:

1. As conditioned herein, the proposed CPD:
 - a. Complies with the Lee Plan. See, Lee Plan Goals 2, 4, 6, 39, 60, 77, 124, 125, Objectives 2.1, 2.2, 60.3, and Policies 1.1.6, 1.5.1, 2.2.1, 6.1.1, 6.1.3, 6.1.4, 6.1.6, 6.1.7, 6.1.8, 60.3.1, 60.3.2, 124.1.2, 125.1.2, Standards 4.1.1, 4.1.2; Lee Plan Maps 1A-B, 2A.
 - b. Complies with the LDC and other County regulations or qualifies for deviations. See, LDC Chapters 10 and 34.
 - c. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.6, 2.1.1, 2.1.2, 2.2.1, 6.1.4, 6.1.8; LDC §§ 34-411(c), (i), and (j).
 - d. Provides sufficient access to support the proposed development intensity, with expected impacts on transportation facilities address by existing County regulations or conditions of approval. See Lee Plan Policy 6.1.5.
 - e. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals 77, 124, 125, Objectives 1.5, 4.1, 77.1, Policy 1.5.1, 6.1.6, 124.1.2, Standard 4.1.4, LDC §34-411(h).
 - f. Will be served by urban services. See, Lee Plan Glossary, Map 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, and Standards 4.1.1 and 4.1.2; LDC §34-411(d).
2. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC §34-411(d).
3. The proposed mix of uses is appropriate at the proposed location. See, Lee Policies 1.1.6, 2.1.1, 6.1.4, 6.1.7.
4. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, LDC Chapters 10 and 34.

5. As conditioned herein, the deviations:
- a. Enhance the objectives of the planned development; and
 - b. Promote the intent of the LDC to protect the public health, safety, and welfare. See, LDC §34-377(b)(4).

SECTION F. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

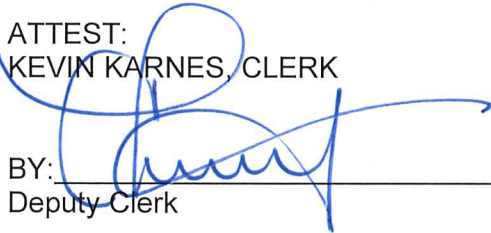
Commissioner Pendergrass made a motion to adopt the foregoing resolution, seconded by Commissioner Ruane. The vote was as follows:

Adopted by unanimous consent.

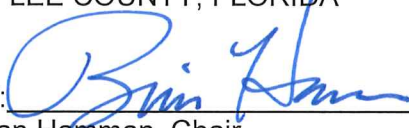
Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 5th day of April 2023.

ATTEST:
KEVIN KARNES, CLERK

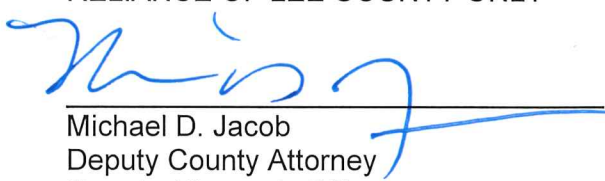
BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


Michael D. Jacob
Deputy County Attorney
County Attorney's Office

RECEIVED
MINUTES OFFICE
2023 APR 19 PM 12:23

SKETCH AND LEGAL DESCRIPTION OF A PORTION OF SE 1/4 OF SW 1/4 OF NW 1/4, SECTION 21, TWP 45 S, RGE 25 E, LEE COUNTY, FLORIDA

SURVEYOR'S NOTES:

1. BEARINGS SHOWN ARE REFERENCED TO THE PLAT OF "PARKER COMMONS", PER INSTRUMENT 200600314343.
2. LEGAL DESCRIPTION SHOWN IS THE SAME AS THAT SHOWN IN COMMITMENT FOR TITLE INSURANCE ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY, FILE NO. 1054-5605922, DATED 12/07/2021, 8:AM, PROVIDED BY CLIENT.
3. NO FIELDWORK WAS PERFORMED IN THE PREPARATION OF THIS EXHIBIT. THIS IS NOT A SURVEY.
4. ALL COORDINATES AND DIMENSIONS ARE U.S. SURVEY FEET (12 METERS = 39.37 FEET)
5. THIS EXHIBIT CONSISTS OF 2 PAGES. EXHIBIT IS NOT VALID WITHOUT ALL PAGES.
6. IF IN PAPER FORMAT, THIS EXHIBIT IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR.
7. IF IN ELECTRONIC FORMAT, THIS EXHIBIT IS NOT VALID WITHOUT AN ELECTRONIC SIGNATURE AS SPECIFIED IN CHAPTER 5J-17.062(3) OF THE FLORIDA ADMINISTRATIVE CODE.

SURVEYOR'S CERTIFICATE

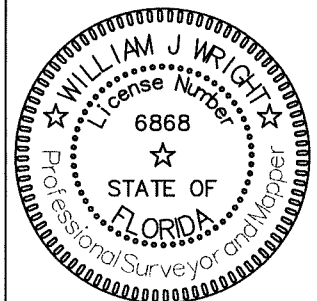
I HEREBY CERTIFY THAT THIS EXHIBIT HAS BEEN MADE UNDER MY DIRECTION, AND COMPLIES WITH STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS CONTAINED IN CHAPTER 5J-17.051, FLORIDA ADMINISTRATIVE CODE, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



Digitally signed by
William Wright
Date: 2022.08.09
07:41:14 -04'00'

WILLIAM J. WRIGHT, P.S.M.
LICENSE NO. 6868, STATE OF FLORIDA
ELECTRONIC VERSION SIGNED AND SEALED BY WILLIAM
J. WRIGHT, P.S.M., ON DATE SHOWN, USING AN SHA-1
AUTHENTICATION CODE. AUTHENTICATION CODE MUST
BE VERIFIED ON ANY ELECTRONIC COPIES.

PAPER COPIES NOT VALID WITHOUT
ORIGINAL INK SIGNATURE AND RAISED SEAL.



WrightPSM, LLC

PROFESSIONAL SURVEYING AND MAPPING
1248 SE 12TH AVE DEERFIELD BEACH, FL 33441
(772) 538-1858 www.wrightpsm.com
CERTIFICATE OF AUTHORIZATION NO. L.B.8186

SCALE: 1"=150'

DATE: 08/09/2022

JOB NO. 21-2105

PAGE 1 OF 3

EXHIBIT A

SKETCH AND LEGAL DESCRIPTION OF A PORTION OF SE 1/4 OF SW 1/4 OF NW 1/4, SECTION 21, TWP 45 S, RGE 25 E, LEE COUNTY, FLORIDA

LEGAL DESCRIPTION:

THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4, SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; LESS THE WEST 100 FEET AND LESS THE EAST 30 FEET THEREOF AND LESS THE SOUTH 140 FEET AS MORE PARTICULARLY DESCRIBED IN THAT CERTAIN FINAL JUDGMENT IN CASE NO. 80-3468-CA-HES RECORDED IN OFFICIAL RECORDS BOOK 1609, PAGE 1917, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

TRACT 9, COLONIAL RANCHETTES, INC., AN UNRECORDED SUBDIVISION, MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; CONTAINING FIVE (5) ACRES, MORE OR LESS. TOGETHER WITH INGRESS AND EGRESS OVER AND ACROSS ROAD EASEMENTS, AS DESCRIBED IN OFFICIAL RECORDS BOOK 444, PAGE 487, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. SUBJECT TO EASEMENT FOR ROADWAY PURPOSES OVER AND ACROSS THE EAST 30 FEET THEREOF.

ALTOGETHER MORE PARTICULARLY DESCRIBED AS:

A TRACT OF LAND LYING WITHIN THE NORTHWEST ONE QUARTER (NW 1/4) OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 21, THENCE RUN N01°16'54"W ALONG THE WEST LINE OF SECTION 21, FOR A DISTANCE OF 140.00 FEET TO A PERMANENT REFERENCE MONUMENT BEING THE SOUTHWEST CORNER OF THE PLAT OF PARKER COMMONS, AS RECORDED AT INSTRUMENT NUMBER 2006000314343 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N88°42'06"E ALONG THE SOUTH LINE OF SAID PLAT AND NORTH RIGHT OF WAY LINE OF DANIELS PARKWAY FOR A DISTANCE OF 680.38 FEET TO A PERMANENT REFERENCE MONUMENT; THENCE RUN N01°16'58"W FOR A DISTANCE OF 190.48 FEET TO A PERMANENT REFERENCE MONUMENT AND **POINT OF BEGINNING**; THENCE RUN N01°16'11"W FOR A DISTANCE OF 331.24 FEET TO A PERMANENT REFERENCE MONUMENT; THENCE RUN N88°38'13"E FOR A DISTANCE OF 681.01 FEET TO A POINT; THENCE RUN S01°05'55"E FOR A DISTANCE OF 331.23 FEET TO A POINT; THENCE RUN S88°38'09"W FOR A DISTANCE OF 30.00 FEET TO A POINT; THENCE RUN S01°05'55"E FOR A DISTANCE OF 191.23 FEET TO A POINT ON THE SAID NORTH RIGHT OF WAY LINE OF DANIELS PARKWAY; THENCE RUN S88°42'06"W ALONG SAID NORTH RIGHT OF WAY LINE FOR A DISTANCE OF 549.41 FEET TO A POINT; THENCE RUN N01°16'58"W FOR A DISTANCE OF 190.60 FEET TO A POINT; THENCE RUN S88°38'09"W FOR A DISTANCE OF 100.00 FEET TO THE **POINT OF BEGINNING**.

WrightPSM, LLC

PROFESSIONAL SURVEYING AND MAPPING
1248 SE 12TH AVE DEERFIELD BEACH, FL 33441
(772) 538-1858 www.wrightpsm.com
CERTIFICATE OF AUTHORIZATION NO. L.B.8186

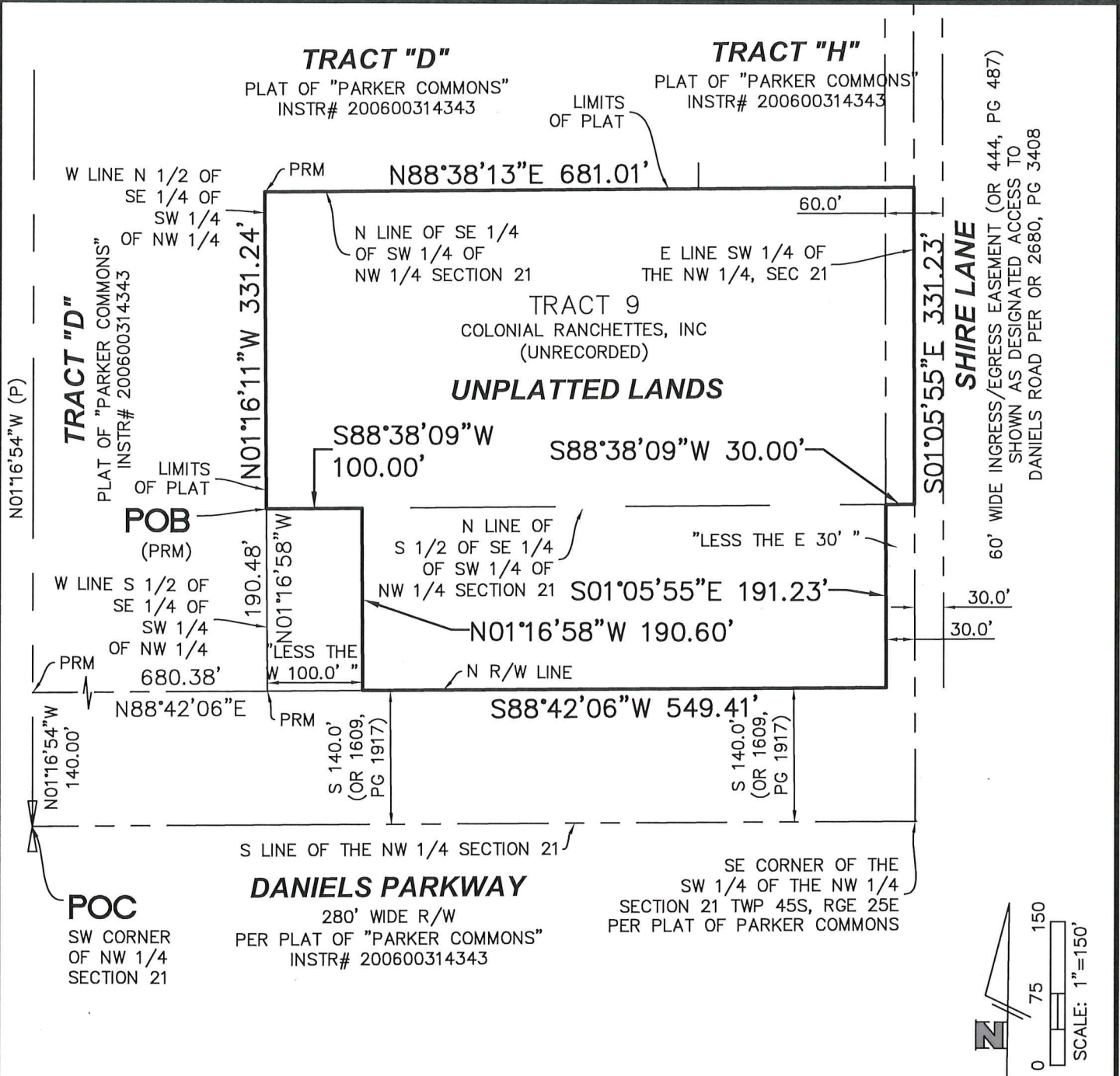
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JOB NO. 21-2105

PAGE 2 OF 3

SKETCH AND LEGAL DESCRIPTION OF A PORTION OF SE 1/4 OF SW 1/4 OF NW 1/4, SECTION 21, TWP 45 S, RGE 25 E, LEE COUNTY, FLORIDA



ABBREVIATIONS LEGEND

(P) = PLAT DATA
(PLAT OF PARKER COMMONS,
INSTR# 200600314343)
(M) = MEASURED DATA
(L) = LEGAL DATA
R/W = RIGHT OF WAY
C/L OR CL = CENTERLINE

PL OR PL = PROPERTY LINE
PB = PLAT BOOK
OR = OFFICIAL RECORDS BOOK
PG = PAGE
LB = LICENSED BUSINESS
PSM = PROFESSIONAL SURVEYOR &
MAPPER
SEC = SECTION
TWP = TOWNSHIP

RGE = RANGE
INSTR = INSTRUMENT

REVIEWED
DCI2022-00010
Hunter Searson, GIS
Planner
Lee County Government
9/6/2022

WrightPSM, LLC
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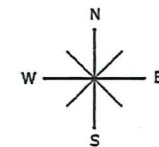
DATE: 08/09/2022
PAGE 3 OF 3



DCI2022-00010

Zoning

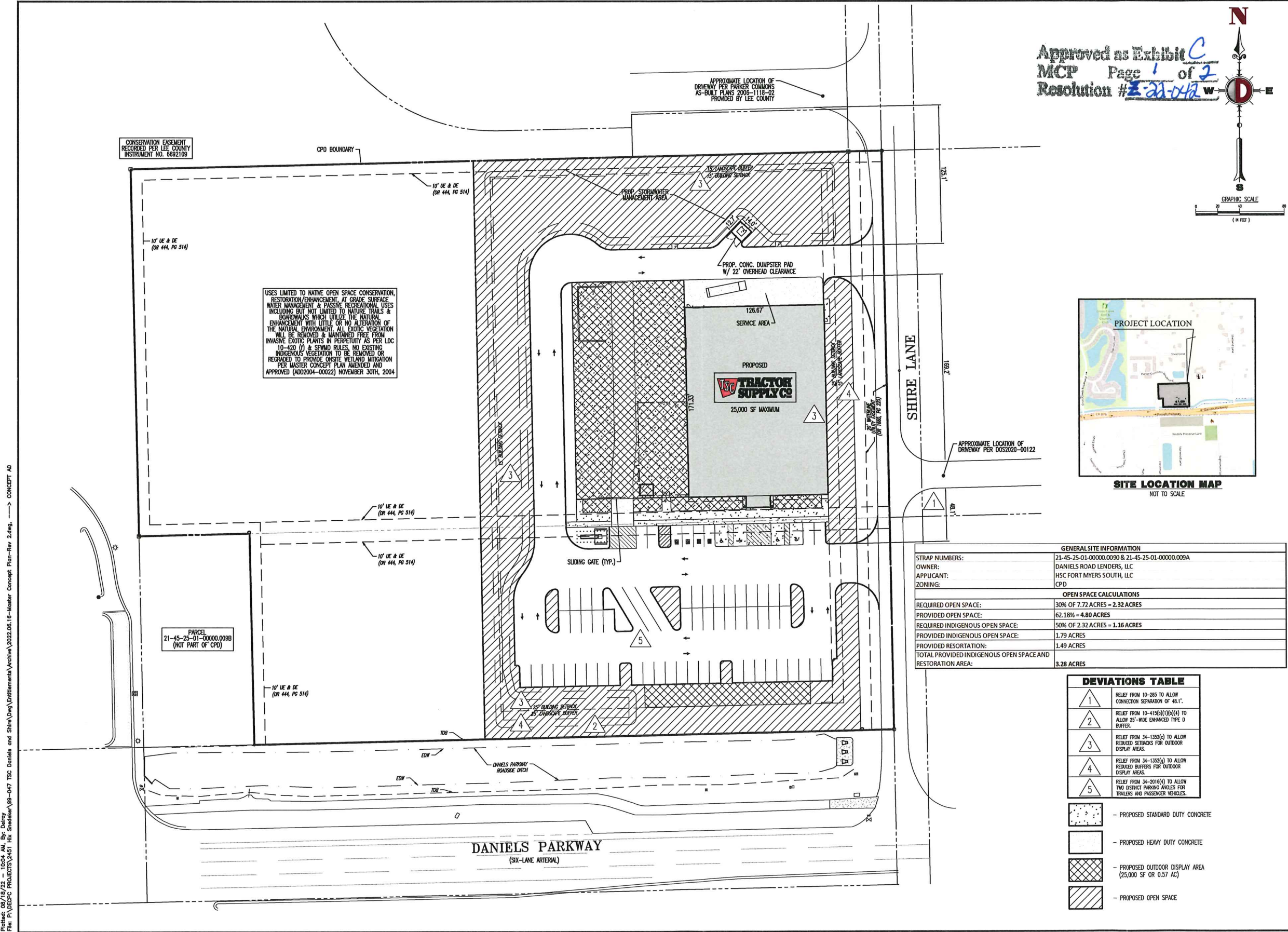
 Subject Property



0 500
Feet



Additional info dated 08-18-2022



Approved as Exhibit C
MCP Page 1 of 2
Resolution #2-28-042



GENERAL SITE INFORMATION	
STRAP NUMBERS:	21-45-25-01-00000.0090 & 21-45-25-01-00000.009A
OWNER:	DANIELS ROAD LENDERS, LLC
APPLICANT:	HSC FORT MYERS SOUTH, LLC
ZONING:	CPD
OPEN SPACE CALCULATIONS	
REQUIRED OPEN SPACE:	30% OF 7.72 ACRES = 2.32 ACRES
PROVIDED OPEN SPACE:	62.18% = 4.80 ACRES
REQUIRED INDIGENOUS OPEN SPACE:	50% OF 2.32 ACRES = 1.16 ACRES
PROVIDED INDIGENOUS OPEN SPACE:	1.79 ACRES
PROVIDED RESTORATION:	1.49 ACRES
TOTAL PROVIDED INDIGENOUS OPEN SPACE AND RESTORATION AREA:	3.28 ACRES

DEVIATIONS TABLE

1	RELIEF FROM 10-205 TO ALLOW CONNECTION SEPARATION OF 48.1'.
2	RELIEF FROM 10-415(b)(1)(b)(4) TO ALLOW 25'-WIDE ENHANCED TYPE D BUTTER.
3	RELIEF FROM 34-1352(c) TO ALLOW REDUCED SETBACKS FOR OUTDOOR DISPLAY AREAS.
4	RELIEF FROM 34-1352(c) TO ALLOW REDUCED BUFFERS FOR OUTDOOR DISPLAY AREAS.
5	RELIEF FROM 34-2016(4) TO ALLOW TWO DISTINCT PARKING ANGLES FOR TRAILERS AND PASSENGER VEHICLES.

- PROPOSED STANDARD DUTY CONCRETE
- PROPOSED HEAVY DUTY CONCRETE
- PROPOSED OUTDOOR DISPLAY AREA (25,000 SF OR 0.57 AC)
- PROPOSED OPEN SPACE

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MICHAEL D. MILES
PROFESSIONAL ENGINEER
FLORIDA LICENSE NO. 81313
DATE:

811
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PREPARING TO EXCAVATE THE EARTH'S
SURFACE ANYWHERE IN ANY STATE.
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TITLE:
**MASTER
CONCEPT PLAN**

SCALE: AS NOTED
DATE: 06/16/2022
PROJECT NO.: 2451-99-047

SHEET NO.: **MCP**
REV. #:
3

Plotted: 08/18/22 - 10:04 AM, By: Delray
File: P:\DEPC PROJECTS\2451 Hix Snadaker\89-047 TSC Daniels and Shire\Draw\Entitlements\Archive\2022.08.18-Master Concept Plan-Rev 2.dwg, --> CONCEPT AO

